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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,437	09/24/2004	Samuel Sprich	2360-0418PUS1	2311

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EXAMINER

CHUKWURAH, NATHANIEL C

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/505,437	Applicant(s) SPRICH, SAMUEL	
	Examiner Nathaniel C. Chukwurah	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 12-16 is/are allowed.
6) ☒ Claim(s) 1-3 and 9-11 is/are rejected.
7) ☒ Claim(s) 4-8 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 4 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 12. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 9 and 10, the preamble recites a “device” in line 1 while the rest of the claim recites attachment to a “stapler” in line 3. It unclear as to whether applicant is claiming the combination of the device and the stapler.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-2 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by K.M.Vogel (US 3,209,976).

With regard to claim 1, Vogel discloses a device having a holder (17) adapted to be fastened to the stapler at the wall (16 Fig. 1), a paper stop (60) retained by the holder (17), an adjusting mechanism (adjusting gauge) for adjusting the paper stop (60) in relation to the holder (17).

With regard to claim 2, the adjusting mechanism comprises a latching mechanism (59) for latching plurality of predetermined latching positions between the paper stop and the holder (19 longitudinal slot).

With regard to claim 9, the device of Vogel includes a detachable holder (17) which can be fastened to a conventional stapler.

With regard to claim 10, the holder (16) has clamping element (59) for fastening the on the conventional stapler.

With regard to claim 11, Vogel discloses a stapling apparatus comprising: a stapler (Fig. 1) capable of stapling paper sheets; and a device (Fig. 6) capable of being used for positioning several sheets in the stapler, the device having a holder (17) adapted to be fastened on the stapler at the wall (16 Fig. 1), a paper stop (60) retained by the holder (17), and an adjusting mechanism (adjusting gauge) for adjusting the paper stop (60) in relation to the holder (17).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel in view of S.A.Crosby (US 2,073,958).

With regard to claim 3, Vogel discloses all claimed subject matter but lacks specific teaching of the latching mechanism being formed by a resilient pressure-exerting component on a holder and a plurality of apertures along the paper stop.

However, Crosby teaches a stapling device including the latching mechanism being formed by a resilient pressure-exerting component (see flexible projecting portion of 22) on a holder (A) and a plurality of apertures (20 slot) along the paper stop (22).

In view of the teaching of Crosby, it would have been obvious to one skilled in the art at the time of the invention to modify the device of Vogel by providing the resilient pressure-exerting latching mechanism in order to hold the latching mechanism in its adjusted position (Page 2, line 30).

Allowable Subject Matter

Claims 4-8 and 12-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 10/13/2005 have been fully considered but they are not persuasive.

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Applicant argues that the gauge means of the device of Vogel does not serve to position paper sheets. It is the Examiner's position that the gauge means capable serving to position paper sheets.

Applicant further argues that the implement does not function without the anvil member, the anvil member, however, is not "adapter to be fastened to" the implement, but part of the implement itself.

The Examiner agrees that anvil member is part of the implement itself, however, applicant have not claimed anvil member adapter to be fastened to the device and/or stapler.

Applicant argues that Crosby fails to disclose or suggest a device "adapter to be fastened to" the stapler. The 102 rejection with respect to Crosby of claims 1-3 is withdrawn.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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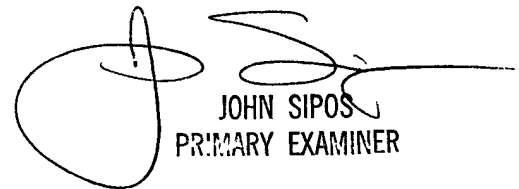
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NC

July 11, 2005.



JOHN SIPOS
PRIMARY EXAMINER